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EXAMINER

FOWLKES, ANDRE R

ART UNIT

PAPER NUMBER

2192

DATE MAILED: 07/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/044,290

Applicant(s)

BANDHOLE ET AL.

Examiner

Andre R. Fowlkes

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01 April 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☒ Claim(s) 1-21 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

1. This action is in response to the amendment filed 4/1/05.

***Drawings***

2. The objection to the drawings is withdrawn, in view of applicant's amendment.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-21 are rejected under 35 U.S.C. 102(b) as being anticipated by White, U.S. Patent No. 5,896,530.

As per claim 1, White discloses a **method of using a dynamic computing environment ("DCE") for a plurality of phases in a software lifecycle**, (col. 1:12-17, "This invention relates ... to a system and method enabling a plurality of computers and associated computer resources, some or all of which may be heterogeneous in configuration (i.e. a DCE), to cooperatively process a variety of (software lifecycle) applications"), **the method comprising:**

**- configuring the dynamic computing environment for a first phase in the plurality of phases** (col. 3:40-44, “a system and method of computer software architecture for enabling a plurality of computers, and associated computer resources, some or all of which may be heterogeneous in configuration (i.e. a DCE), to cooperatively process applications (i.e. phases)”, and col. 7:51-52, “dynamic changes to device configurations”),

**-wherein said configuring comprises:**

**- allocating a first subnet** (col. 3:40-44, “(allocating) a system and method of computer software architecture for enabling a plurality of computers (i.e. subnets), and associated computer resources (i.e. subnets), some or all of which may be heterogeneous in configuration (i.e. a DCE), to cooperatively process applications”),

**- allocating a first computing device coupled to the subnet** (col. 3:40-44, “a system and method of computer software architecture for enabling a plurality of computers, and associated computer resources, some or all of which may be heterogeneous in configuration (i.e. a DCE composed of subnets), to cooperatively process applications”),

**- allocating a first storage device coupled to the first computing device** (col. 3:40-44, “a system and method of computer software architecture for enabling a plurality of computers, and associated computer resources (i.e. storage), some or all of which may be heterogeneous in configuration (i.e. a DCE), to cooperatively process applications”),

**- storing a first set of instructions on the first storage device (col.**

3:40-44, “a system and method of computer software architecture for enabling a plurality of computers, and associated computer resources, some or all of which may be heterogeneous in configuration (i.e. a DCE), to cooperatively process applications (i.e. instructions on the storage device)”),

**- using the configured dynamic computing environment in the first phase**

(col. 3:40-44, “a system and method of computer software architecture for enabling a plurality of computers, and associated computer resources, some or all of which may be heterogeneous in configuration, to cooperatively process applications (i.e. phases)”),

**- configuring the dynamic computing environment for a second phase in the plurality of phases** (col. 3:40-44, “a system and method of computer software architecture for enabling a plurality of computers, and associated computer resources, some or all of which may be heterogeneous in configuration, to cooperatively process applications (i.e. phases)”),

**- wherein said configuration comprises:**

**-allocating a second subnet** (col. 3:40-44, “(allocating) a system and method of computer software architecture for enabling a plurality of computers (i.e. subnets), and associated computer resources (i.e. subnets), some or all of which may be heterogeneous in configuration (i.e. a DCE), to cooperatively process applications”),

**- allocating a second computing device coupled to the subnet** (col. 3:40-44, “a system and method of computer software architecture for enabling a

plurality of computers, and associated computer resources, some or all of which may be heterogeneous in configuration (i.e. a DCE composed of subnets), to cooperatively process applications”),

- **allocating a second storage device coupled to the second computing device** (col. 3:40-44, “a system and method of computer software architecture for enabling a plurality of computers, and associated computer resources (i.e. storage), some or all of which may be heterogeneous in configuration (i.e. a DCE), to cooperatively process applications”),

- **storing a second set of instructions on the second storage device** (col. 3:40-44, “a system and method of computer software architecture for enabling a plurality of computers, and associated computer resources, some or all of which may be heterogeneous in configuration (i.e. a DCE), to cooperatively process applications (i.e. instructions on the storage device)”),

- **using the configured dynamic computing environment in the second phase** (col. 3:40-44, “a system and method of computer software architecture for enabling a plurality of computers, and associated computer resources, some or all of which may be heterogeneous in configuration, to cooperatively process applications (i.e. phases)”).

As per claim 2, the rejection of claim 1 is incorporated and further, White discloses that **the plurality of phases comprise a development phase** (col. 4:22, “enabling development of application(s)”).

As per claim 3, the rejection of claim 2 is incorporated and further, White discloses:

- **using the configured DCE for a first task** (col. 3:40-44, "a system and method of computer software architecture for enabling a plurality of computers, and associated computer resources, some or all of which may be heterogeneous in configuration, to cooperatively process applications (i.e. multiple tasks processed simultaneously)"),

- **using the configured DCE simultaneously with the first task for a second task** (col. 3:40-44, "a system and method of computer software architecture for enabling a plurality of computers, and associated computer resources, some or all of which may be heterogeneous in configuration, to cooperatively process applications (i.e. multiple tasks processed simultaneously)").

As per claim 4, the rejection of claim 1 is incorporated and further, White discloses that **the plurality of phases comprise an integration phase** (col. 4:25-26, "enabling applications to be tested as large integrated applications").

As per claim 5, the rejection of claim 4 is incorporated and further, White discloses **using the configured DCE for an integration phase comprises:**

- **executing the first set of instructions on the first computing device, wherein the first set of instructions causes a first set of information to be**

**transmitted to a third computing device coupled to the first subnet** (col. 3:40-44, "a system and method of computer software architecture for enabling a plurality of computers, and associated computer resources, some or all of which may be heterogeneous in configuration (i.e. several subnets), to cooperatively process applications (i.e. execute instructions)"),

**- in response to the first set of information, executing a third set of instructions on the third computing device** (col. 3:40-44, "a system and method of computer software architecture for enabling a plurality of computers, and associated computer resources, some or all of which may be heterogeneous in configuration (i.e. several subnets), to cooperatively process applications (i.e. multiple tasks processed simultaneously)"),

**- monitoring said executing the first and third set of instructions and a result of said executing the third set of instructions** (col. 35:57, "a system has ... a transaction processing monitor", and col. 3:40-44, "a system and method of computer software architecture for enabling a plurality of computers, and associated computer resources, some or all of which may be heterogeneous in configuration (i.e. several subnets), to cooperatively process applications (i.e. multiple tasks processed simultaneously)").

As per claim 6, the rejection of claim 1 is incorporated and further, White discloses that **the plurality of phases comprise a testing phase** (col. 4:25-26, "enabling applications to be tested").

As per claim 7, the rejection of claim 6 is incorporated and further, White discloses **if said using the configured DCE in the first phase results in an error, re-provisioning a clean environment in the configured DCE during the testing phase** (col. 18:3-5, "when installing an application in a new system or when redeploying a new release of an application", and col. 7:51-52, "dynamic changes to device configurations (in response to errors)").

As per claim 8, the rejection of claim 1 is incorporated and further, White discloses **a beta testing phase, wherein a first user performs said using the configured DCE in the first phase, and a second user performs said using the configured DCE in the second phase** (col. 4:25-26, "enabling applications to be tested (in multiple phases)", and col. 17:5-10, "Similarly, more than one user may have multiple applications active on multiple systems at any one point in time.", and col. 24:50-60, "modifications of program logic, data base query, panels, and/or any other components of the transaction will always be installed synchronously").

As per claim 9, the rejection of claim 8 is incorporated and further, White discloses that **during the beta testing phase, said configuring the DCE comprises the first user installing the first set of instructions on the DCE and said using the configured DCE comprises the first user beta testing the first set of instructions using the DCE** (col. 18:3-5, "when installing an application in a new system or when

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redeploying a new release of an application”, and col. 4:25-26, “enabling applications to be tested (in multiple phases)”, and col. 17:5-10, “Similarly, more than one user may have multiple applications active on multiple systems at any one point in time.”, and col. 24:50-60, “modifications of program logic, data base query, panels, and/or any other components of the transaction will always be installed synchronously”).

As per claim 10, the rejection of claim 1 is incorporated and further, White discloses a **staging phase** (col. 10:12, “(the system) provides for development of applications that execute under control of the IET through the user interface, and performs background functions at each stage of the application development. These stages can be defined as definition (i.e. staging), composition, construction and deployment”).

As per claim 11, the rejection of claim 10 is incorporated and further, White discloses **installing a new version of the first set of instructions and wherein using the configured dynamic computing environment comprises enabling access for at least one user to the new version of the first set of instructions** (col. 18:3-5, “when installing an application in a new system or when redeploying a new release of an application”).

As per claim 12, the rejection of claim 1 is incorporated and further, White discloses a **deployment phase** (col. 10:12, “(the system) provides for development of

applications that execute under control of the IET through the user interface, and performs background functions at each stage of the application development. These stages can be defined as definition (i.e. staging), composition, construction and deployment").

As per claim 13, the rejection of claim 12 is incorporated and further, White discloses **testing the first set of instructions; and updating the first set of instructions if updates are required** (col. 4:25-26, "enabling applications (i.e. a set of instructions) to be tested", and col. 4:19-20, "providing real time application upgrades").

As per claim 14, the rejection of claim 1 is incorporated and further, White discloses that **the software lifecycle comprises a shrink-wrap lifecycle** (col. 10:12, "(the system) provides for development of applications that execute under control of the IET through the user interface, and performs background functions at each stage of the application development. These stages can be defined as definition (i.e. staging), composition, construction and deployment", and the White system allows all of the operations performed during shrink wrap lifecycle development).

As per claim 15, the rejection of claim 1 is incorporated and further, White discloses that **the software lifecycle comprises a web site lifecycle** (col. 10:12, "(the system) provides for development of applications that execute under control of the IET through the user interface, and performs background functions at each stage of the

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application development. These stages can be defined as definition (i.e. staging), composition, construction and deployment”, and the White system allows all of the operations performed during website lifecycle development).

As per claim 16, the rejection of claim 1 is incorporated and further, White discloses that **the software lifecycle comprises an ASP lifecycle** (col. 10:12, “(the system) provides for development of applications that execute under control of the IET through the user interface, and performs background functions at each stage of the application development. These stages can be defined as definition (i.e. staging), composition, construction and deployment”, and the White system allows all of the operations performed during ASP lifecycle development).

As per claims 17-19, this is another method version of the claimed method discussed above, in claims 1-16, wherein all claimed limitations have also been addressed and/or cited as set forth above. For example, see Whites portable and dynamic distributed applications architecture (col. 137:7-144:38).

As per claim 20, this is an apparatus version of the claimed method discussed above, in claim 1, wherein all claimed limitations, except for the use of virtual computing devices/subnets have also been addressed and/or cited as set forth above. For example, see Whites portable and dynamic distributed applications architecture (col. 137:7-144:38). White discloses **the use of virtual subnets and virtual computing**

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devices (definition: computing devices and subnets that are part of the DCE but whose resources have not been allocated yet, specification p.7:13-16) at col. 3:40-44, “a system and method of computer software architecture for enabling a plurality of computers, and associated computer resources, some or all of which may be heterogeneous in configuration (i.e. a DCE), to cooperatively process applications (i.e. instructions on the storage device)”, and col. 7:51-52, “dynamic changes to device configurations (i.e. allocation of devices)”.

As per claim 21, this is a system version of the claimed method discussed above, in claim 1, wherein all claimed limitations have also been addressed and/or cited as set forth above. For example, see Whites portable and dynamic distributed applications architecture (col. 137:7-144:38).

### ***Response to Arguments***

Applicants arguments have been considered but they are not persuasive.

*In the remarks, the applicant has argued substantially that:*

- 1) The cited sections of White do not disclose the allocation of resources or a distributed computing environment (“DCE”), at p. 11:4-6 and 12:4-7.

*Examiner's response:*

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- 1) The examiner disagrees with applicant's characterization of the applied art.

White does disclose the allocation of resources and a DCE at col. 7:51-52, "dynamic changes to device configurations"), as disclosed in the art rejection, above.

*In the remarks, the applicant has argued substantially that:*

- 2) The cited sections of White do not disclose virtual subnets or virtual computing devices w.r.t. claim 20, at p. 13:1-2.

*Examiner's response:*

- 2) White does disclose the use of virtual subnets and virtual computing devices consistent with the definition in applicant's specification at p. 7:13-16, (i.e. computing devices and subnets that are part of the DCE but whose resources have not been allocated yet) at col. 3:40-44, "a system and method of computer software architecture for enabling a plurality of computers, and associated computer resources, some or all of which may be heterogeneous in configuration (i.e. a DCE), to cooperatively process applications (i.e. instructions on the storage device)", and col. 7:51-52, "dynamic changes to device configurations (i.e. allocation of devices)", as addressed in the art rejection of claim 20.

*In the remarks, the applicant has argued substantially that:*

- 3) The cited sections of White do not disclose the steps of executing and monitoring w.r.t. claim 5, at p. 13:15-17.

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*Examiner's response:*

3) White does disclose the steps of executing and monitoring, as addressed at col. 35:57, "a system has ... a transaction processing monitor", and col. 3:40-44, "a system and method of computer software architecture for enabling a plurality of computers, and associated computer resources, some or all of which may be heterogeneous in configuration (i.e. several subnets), to cooperatively process applications (i.e. execute instructions)", and in the above art rejection.

*In the remarks, the applicant has argued substantially that:*

4) The cited sections of White do not disclose re-provisioning or providing a clean environment in the event of an error w.r.t. claim 7, at p. 13:19-21.

*Examiner's response:*

4) The examiner disagrees with applicant's characterization of the applied art. White does disclose re-provisioning or providing a clean environment in the event of an error at col. 18:3-5, "when installing an application in a new system or when redeploying a new release of an application", and col. 7:51-52, "dynamic changes to device configurations (in response to errors)", as addressed in the art rejection above.

*In the remarks, the applicant has argued substantially that:*

5) The cited sections of White do not disclose multiple users using a DCE and having each user perform tasks such as installation, w.r.t. claims 8 and 9, at p. 14:1-2.

*Examiner's response:*

5) The examiner disagrees with applicant's characterization of the applied art.

White does disclose multiple users using a DCE and having each user perform installation, at col. 17:5-10, "Similarly, more than one user may have multiple applications active on multiple systems at any one point in time.", and col. 24:50-60, "modifications of program logic, data base query, panels, and/or any other components of the transaction will always be installed synchronously", and as addressed above in the art rejection.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

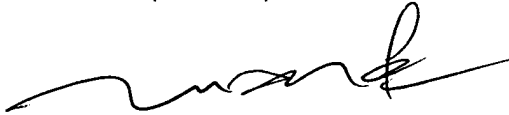
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andre R. Fowlkes whose telephone number is (571) 272-3697. The examiner can normally be reached on Monday - Friday, 8:00am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Q. Dam can be reached on (571)272-3695. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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ARF



**TUAN DAM**  
**SUPERVISORY PATENT EXAMINER**